IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

JUDGMENT

SUMER @ SUMER SINGH VS. THE ADDITINOAL DISTRICT & SESSIONS JUDGE (F.T.) NO.4, M.A.C.T.CASES, JODHPUR

(S.B.CIVIL WRIT PETITION No.6748/07)

Dated: 23.10.2007

HON'BLE MR.JUSTICE SANGEET LODHA

Mr.S.K.Sankhla, for the petitioner.

BY THE COURT:-

This writ petition is directed against the order dated 1.5.2007 passed by the Additional District & Sessions Judge(Fast Track) No.4, M.A.C.T. Cases, Jodhpur in M.A.C.T.Case No. 198/05, whereby an application preferred by the claimant petitioner praying for disbursement of amount of interest over the principal award amount kept in fixed deposit, has been rejected.

The brief facts of the case are that on an application being preferred under Section 140 /166 of the Motor Vehicles Act, 1988(in short "the Act of 1988" hereinafter) an award for Rs.5,84,400/- alongwith interest @ 7.5% p.a. from the date of filing of the claim petition i.e. 19.5.2004 was passed in favour of the claimant petitioner by the respondent Tribunal. After

deducting an amount of Rs.25,000/- already paid to the petitioner against no fault liability , the learned Tribunal directed for payment of a sum of Rs.5,59,400/- alongwith interest as indicated above to the claimant petitioner. An amount of Rs.59,400/- was directed to be paid to the claimant petitioner in cash and remaining amount Rs.5,00,000/- and interest accrued thereon in terms of the order passed by the learned Tribunal w.e.f. 19.5.2004 was ordered to be kept in fixed deposit. The claimant petitioner was allowed to withdraw the monthly interest payable by the bank on the fixed deposit.

The petitioner preferred an application before the learned Tribunal stating therein that due to injuries sustained by him in the accident,his both the hands were got amputed and he has suffered 100% permanent disability. It was further submitted that he had remained under the treatment for quite long time and has incurred huge expenditure on that account. The petitioner submitted that for the purpose of treatment of the injuries sustained in the accident, he took money on credit and at present also he has to take money on credit for maintaining himself and his family. On the basis of aforesaid factual foundation, the petitioner prayed that an amount of interest accrued on award amount kept in fixed deposit may be allowed to be disbursed to the petitioner in cash. However, the submissions made by the petitioner did not find favour with the

learned Tribunal and accordingly, the application preferred by him has been rejected as aforesaid.

I have considered the submissions of the learned counsel for the petitioner.

It is to be noticed that due to injuries sustained by the petitioner in the accident, both his hands were got amputed , therefore, it goes without saying that the petitioner must have incurred huge expenditure for the treatment of the injuries sustained. There is no reason to disbelieve the version of the petitioner that for the treatment of the injuries sustained and so as to maintain his family, he has taken money on credit. It is true that while passing an order for disbursement of the award amount, the Tribunal has to keep in view the overall interest of the claimant and his family. But, then while dealing with the amount of compensation, the need and wishes of the claimant should also be kept in view inasmuch as ultimately, the amount of compensation belongs to him.

On the facts and circumstances of the present case, in my considered opinion, the learned Tribunal has erred in rejecting the application preferred by the claimant petitioner for disbursement of the amount of interest accrued on the award amount kept in fixed deposit . Keeping in view the need of the claimant petitioner, it is considered appropriate that the amount of interest accrued on award amount kept in fixed deposit

should be disbursed to the petitioner.

In the result, the writ petition is allowed. Order impugned dated 1.5.2007 passed by the respondent Tribunal in M.A.C.T. Case No.198/05 is set aside. It is hereby ordered that the amount of interest accrued on the award amount kept in fixed deposit may be disbursed to the claimant petitioner within a period of two weeks from the date of this order.

(SANGEET LODHA),J.